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EXAMINER

CLEMENT, MICHELLE RENEE

ART UNIT PAPER NUMBER

3641

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-30 and 32-34, in the reply filed on 2/26/06 is acknowledged.

Drawings

2. The informal drawings are not of sufficient quality. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

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REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).

"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(f) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(g) BRIEF SUMMARY OF THE INVENTION.

(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(i) DETAILED DESCRIPTION OF THE INVENTION.

(j) CLAIM OR CLAIMS (commencing on a separate sheet).

(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Objections

3. Claim 1 is objected to because of the following informalities: it is apparently missing words because it is not clear to the examiner what is meant by "and having a negative effect is diminished". Claim 9 apparently has a misplaced (s) in line 4, in that multiple tubes have not been claimed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the launcher including a closable hatch, does not reasonably provide enablement for the hatch being a *squeeze lock*. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims. It is not clear to the examiner how

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the hatch is a squeeze lock or even what a squeeze lock is. Applicant has not defined what a squeeze lock is, the term is not one known in the art and the figures do not adequately show the element to apprise one of ordinary skill in the art what one is.

6. Claim 17 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear to the examiner how the adapters aid to adjust the angle of deployment in lateral and elevation, merely stating that an element is present is not necessarily enabling in how it functions in the manner claimed.

7. Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear to the examiner how the penetrating body (or even what the penetrating body is) opens the cover arrangement so that the cover arrangement is closed again.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-30 and 32-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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10. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

11. Claim 1 recites the limitation "the body shell". There is insufficient antecedent basis for this limitation in the claim.

12. Claim 2 recites the limitation "the inside of the body shell". There is insufficient antecedent basis for this limitation in the claim.

13. Claim 4 recites the limitation "the body sheet". There is insufficient antecedent basis for this limitation in the claim.

14. Claim 6 recites the limitation "the inside" and "the launcher tube". There is insufficient antecedent basis for this limitation in the claim.

15. Claim 9 recites the limitation "the interior range". There is insufficient antecedent basis for this limitation in the claim.

16. Claim 11 recites the limitation "launcher housing opening", "loading hatch", and "loading opening of the launcher housing". There is insufficient antecedent basis for this limitation in the claim.

17. Claim 17 recites the limitation "the angle of deployment" and "the discharge means". There is insufficient antecedent basis for this limitation in the claim.

18. Claim 21 recites the limitation "the penetrating body". There is insufficient antecedent basis for this limitation in the claim.

19. A narrow range followed by a broad range that does not fall within the narrow range is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of

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the patent protection desired. In the present instance, claim 33 recites the broad recitation 1-5 cm, and the claim also recites 0.5-1.5 cm (in claim 32 which claim 33 depends upon and therefore includes all the limitations of), which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

20. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

21. Claims 1-3, 5-9, 13, 14, 18, 20-23 rejected under 35 U.S.C. 102(b) as being anticipated by Farley et al. (US Patent # 4,681,013). Farley discloses a device for deploying ammunition, wherein a recess in a body shell of an aircraft provided for ammunition deployment is covered by a cover arrangement that reduces a radar signature caused by the recess wherein the ammunition is deployed with the aid of a launcher located on the inside of the body shell, wherein the launcher has at least one discharge tube. The launcher is located at a distance of 0-20 cm from the body shell of the object, the discharge tube is arranged on the inside of the body shell and is accommodated in a launcher housing, wherein the launcher housing is fixedly connected inside of the body shell and the launcher housing includes at least one closable hatch in the interior range of the object. The launcher housing is provided with outlet means and connection facility. The cover arrangement covers the recess such that a radar camouflaged structure of the body shell is preserved and the cover arrangement can be opened by a penetrating body and then

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closed again, the cover arrangement includes at least one camouflage hatch that is arranged as a wing hatch.

22. Claims 1-5, 7-9, 18-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Aknin (US Patent # 6,583,749). Aknin discloses a device for deploying ammunition wherein a recess in a body shell of a ship provided for ammunition deployment is covered by a cover arrangement that reduces a radar signature caused by the recess, wherein the ammunition is deployed with the aid of a launcher located on the inside of the body shell, wherein the launcher has at least one discharge tube and terminates flush with a body sheet. The discharge tube is accommodated in a launcher housing and the launcher housing is fixedly connected with the inside of the body shell, the launcher housing includes at least one closable hatch in an interior range of the object. The cover arrangement comprises a radar camouflage coating, covers the recess, is opened by a penetrating body to then close again, and includes at least one camouflage hatch. The camouflage hatch is arranged as a single hatch, the cover arrangement includes at least one elastic material provided with a radar-scattering coating made of metal.

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 11, 14, 15 and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aknin as applied to claims 1-3, 7, 8, 21 and 24-26 above, and further in view of Borgwarth et al. (US Patent # 6,142,055). Although Aknin does not expressly disclose the device further

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comprising a gas-tight seal, connection facility, electrical ignition means and a splash-proof protective cover, Borgwarth et al. does. Borgwarth et al. teaches a break through protective cover for launchers having connection facility and electrical ignition means. The cover terminates flush with the body shell and is retained by a snap in device. Borgwarth et al. and Akin are analogous art because they are from the same field of endeavor: projectile launchers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the protective cover as taught by Borgwarth et al. with the device as taught by Akin. The suggestion/motivation for doing so would have been to obtain a launcher that could protect the projectile from the elements as suggested by Borgwarth et al.

25. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akin as applied to claims 1, 21 and 24 above, and further in view of Rosenthal (US Patent # 3,349,397).

Although Akin does not expressly disclose the elastic material being a rubber material Rosenthal does. Rosenthal teaches a flexible radar scattering material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the material as taught by Rosenthal with the device of Akin, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Deckard et al. (US Patent # 6,686,866), Zurek et al. (US Patent # 6,923,107), Mussey (US Patent # 4,301,708), Ciappi (US Patent # 6,755,111), Fischer (US Patent # 5,488,372),

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Breeden et al. (US Patent # 6,867,725), Chapman (US Patent # 3,545,837), and Trussell (US Patent # 41,245).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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PRIMARY EXAMINER